

NOV 28 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Charles Crosby
Serial No.: 10/084,008
Filed: 02/27/2002
For: PULSE CAM
Examiner: David M. Shay
Attorney Docket No.: PC-1204

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

SENT BY FACSIMILE ON MONDAY NOVEMBER 28, 2005 TO:

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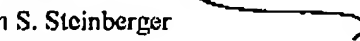
Honorable Commissioner:

I enclose the following papers:

1. REQUEST FOR RECONSIDERATION (Three pages)
2. RESUBMISSION OF DECLARATION FILED 11/2/2005
(Eight pages and Two page Appendix)

Please enter the above correspondence which totals thirteen(13) pages with cover sheet.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below as a FACSIMILE TO (571) 273-4773 and (703) 872-9306, addressed to the: Commissioner of Patents and Trademarks, P.O. Box 1450 Alexandria, VA 22313-1450.

(571) 273 8300
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11/28/05
Date

Brian S. Steinberger
(Name of Person FAXING Attached Papers)

(Signature of Person FAXING Attached Papers)

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Atty. Dkt.
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Honorable Commissioner for Patents
P.O. Box 1450
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REQUEST FOR RECONSIDERATION

Sir:

In response to the final office action mailed August 26, 2005 and the Advisory Action mailed November 25, 2005, Applicant respectfully requests RECONSIDERATION of this application. Reconsideration is requested in view of the ADVISORY ACTION ERRONEOUSLY FAILING TO REFER TO THE AFFIDAVIT/DECLARATION FILED BY APPLICANT on 11/2/2005.

Applicant STRONGLY DISAGREES with the Examiner's statement on page 2 of the Advisory Action that "As explained...the silicon dioxide crystal sphere of TENS CAM will function to reduce the beam size and amplify and diffuse the beam just as it does in the instant device..." This statement is incorrect in view of Applicant's Affidavit/Declaration that was filed.

Applicant's previously filed DECLARATION/AFFIDAVIT UNDER 37CFR 1.132 CLEARLY PROVIDES EVIDENCE THAT THERE WERE SEVERAL VERSIONS OF A TENS CAM UNIT by the APPLICANT, and that the FIRST TIME A TENS CAM UNIT WAS PUBLICLY DISCLOSED WITH A "SPHERE CRYSTAL LENS" WAS OCTOBER 12-14, 2003. CLEARLY, THE USE OF A "SPHERE CRYSTAL LENS" WAS AFTER THE FEBRUARY 27, 2002 FILING DATE OF THE SUBJECT PATENT APPLICATION.

Applicant again includes with this response the AFFIDAVIT/DECLARATION AND TWO PAGE APPENDIX that was filed on 11/2/2005.

THE DECLARATION/AFFIDAVIT IS PRIMA FACIE EVIDENCE FOR REMOVING TENS CAM AS PRIOR ART AGAINST ALL "SPHERE CRYSTAL (TYPE) LENS" FEATURES OF THE CLAIMS. IT IS THUS IMPROPER FOR THE EXAMINER TO MAINTAIN THIS REJECTION OVER THE SUBJECT CLAIMS.

Applicant's previously submitted Declaration/Affidavit was in response to the Examiner's requirement to provide dates of public disclosure and documentation regarding the Tens Cam device. As noted, documentation has already been provided. Clearly, Applicant has now provided dates that substantiate the different versions of TENS CAM that were publicly disclosed, and that the TENS CAM UNIT with a "SPHERE CRYSTAL LENS" WAS DISCLOSED ON OCTOBER 12-14, 2003, AFTER THE 2/27/2002 FILING DATE OF THE SUBJECT APPLICATION.

The TENS CAM was the subject of several TENS CAM MODELS as follows:

1. BASIC and Model 100-Crystal With Coil Wrap-First Public Disclosure 3/25/99.
2. Model 102-Sphere Lens & Coil Wrapped Crystal-First Public Disclosure 3/22/2002
3. Model 103-LED in front of Model 102-First Public Disclosure 10/12/03
4. Current Model-PULSE CAM-Subject of Current Patent Application Model 102 with perpendicular side mounted crystals(NO PUBLIC DISCLOSURE)

As can be seen, the Crystal Sphere lens was first publicly disclosed in Model 102 in 2003 which was AFTER the subject application was filed in February 27, 2002. Additionally, the side mounted crystals in the subject application have NOT been publicly disclosed.